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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: **HAROLD VATER ET AL**
SERIAL NO.: 09/700,656
FILED: February 14, 2001
FOR: ACCESS-CONTROLLED DATA STORAGE
MEDIUM

GROUP ART UNIT: 2137
EXAMINER: Z. Davis
ATTY. REFERENCE: VATE3001/BEU

COMMISSIONER OF PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The below identified communication(s) or document(s) is(are) submitted in the above application or proceeding:

- | | |
|---|---|
| <input type="checkbox"/> Declaration | <input type="checkbox"/> Issue Fee |
| <input type="checkbox"/> Priority Document | <input type="checkbox"/> Check |
| <input type="checkbox"/> Formal Drawings | <input type="checkbox"/> Application Data Sheet |
| <input checked="" type="checkbox"/> Request for Reconsideration of Notice of Panel Decision that Request for Pre-Appeal Brief Review is Improper | |

☒ Please debit or credit **Deposit Account Number 02-0200** for any deficiency or surplus in connection with this communication. A duplicate copy of this sheet is provided for use by the Deposit Account Branch.

☐ Small Entity Status is claimed.

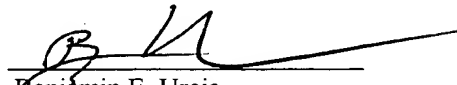
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DATE: December 20, 2006

Respectfully submitted,


Benjamin E. Urcia
Attorney for Applicant
Registration Number: 33,805



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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re U.S. Patent Application of:)	<u>Group Art Unit: 2137</u>
)	
Harold VATER <i>et al.</i>)	<u>Examiner: Z. Davis</u>
)	
Serial Number: 09/700,656)	<u>Attorney Docket: VATE3001beu</u>
)	
Filed: February 14, 2001)	<u>Confirmation No.: 7577</u>

For: Access-Controlled Data Storage Medium

REQUEST FOR RECONSIDERATION OF NOTICE OF PANEL DECISION THAT
REQUEST FOR PRE-APPEAL BRIEF REVIEW IS IMPROPER

Honorable Commissioner For Patents
P.O. Box 1450
Alexandria, VA. 22313-1450

Sir:

Reconsideration of the holding that the Request for Pre-Appeal Brief review submitted on November 20, 2006, is improper is respectfully requested.

The holding was on the grounds that a proposed amendment was included with the Pre-Appeal Brief request. In reply, the Appellant respectfully submits that **NO PROPOSED AMENDMENTS WERE INCLUDED WITH THE REQUEST.**

Instead, the included listing of claims merely corrected a status identifier. The amendments in the listing were previously submitted on October 11, 2006 and approval for entry was indicated in an Advisory Action dated October 26, 2006. Thus, the Request for Pre-Appeal Brief review is of claims already in the application, and not of newly amended claims submitted with the request.

Calling a revised status identifier a “proposed amendment” for the purpose of denying a request for pre-appeal brief review is a bureaucratic action worthy of a Kafka novel, but is not justified by either the rules or policy. The revised listing could have been

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submitted before or after the request without affecting the request. It was submitted together with the request in the interest of enabling the PTO to process the papers together, with the assumption that the PTO would recognize that the claims were NOT being amended. To make sure, the first page of the response stated that "the response does not include any amendments."

The purpose of pre-appeal brief review is to correct errors by the PTO in the most efficient manner. Of course, if amendments are made, then additional consideration is required and it makes sense to deny the request. However, where the amendments were previously submitted and approved for entry, and no proposed amendments are submitted with the request, as is the case here, consideration of the request is appropriate.

Therefore, it is again respectfully requested that a Pre-Appeal Brief conference be held, and that the outstanding rejection be reversed.

Respectfully submitted,

BACON & THOMAS, PLLC

A handwritten signature in black ink, appearing to be 'B E Urcia', with a long horizontal line extending to the right.

By: BENJAMIN E. URCIA
Registration No. 33,805

Date: December 20, 2006

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